IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**WRIT PETITION NO : 3675 of 1995**

Between:

Maruthi Prasad Canteen, rep. by its Proprietor,
Sri Srinivasa Upadhyaya, s/o. Padmanabha Upadhayaya.
aged about 45 years, R/o. Kodangal, Mahabubnagar District.

**..... PETITIONER**

AND

1. The Authority Under Section 50 of A.P. Shops and Establishments Act,1988

and Labour Officer, Mahabubnagar.

2 The First Class Judicial Magistrate,
Kodangal, Mahabubnagar Dist.

3 Dhanavathi Shankar, C/o. D.Tirupathi,
R/o. Mahabubnagar.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the 1st respondent and issue a writ, order or direction particularly one in the nature of writ of certiorari and quash the order passed by the 1st respondent in I.A.No.7/94 in S.C.No.11/94, dated 21.09.1994 and holding the same as illegal, unjust, contrary to law and perverse.

**Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO**

**Counsel for the Respondent No.3 : MR.MOHD. AZIZULLAH KHAN (not present)**

**Counsel for the Respondent No.1: None appeared.**

**The Court made the following :**

**ORAL ORDER**:

1. The writ petition is filed challenging the order passed by the 1st respondent in I.A.No.7 of 1994 in S.C.No.11 of 1994, dated 21.9.1994.

2. The petitioner is the management. The 3rd respondent filed a case in S.C.No.11 of 1994 before the Authority under Section 50 of the A.P. Shops and Establishments Act, 1988. It appears that the Authority passed an order, dated 25.7.1994 allowing the claim for Rs.3,503/-. Against the said order, the petitioner-management filed an application to set aside the *exparte* order, but however, the application was dismissed by an order, dated 21.9.1994. The said order is assailed before this Court.

3. Mr.A.K.Jaya Prakash Rao, learned counsel for the petitioner, submits that the order is devoid of any reasons. When sufficient reasons were shown for reopening the matter, the Tribunal ought to have passed reasoned order. He submits that the order is liable to be set aside as it is devoid of any reasons.

4. Even though notice was served on the 3rd respondent, he is not

present. The learned counsel appearing for the 3rd respondent is not present and there is no representation on his behalf.

5. I have perused the order under challenge. I find only one sentence in the order, which reads as follows:

*"The petition is rejected as not maintainable"*

The said order *ex-facie* is unsustainable under law. The Authority is bound to give reasons while dismissing the application as not maintainable. No reasons are forthcoming to find out as to the legal position with regard to the application.

6. Thus, I find that the order is not sustainable and accordingly set aside and the matter is remitted back to the Authority for fresh consideration. The Authority shall issue notice to the parties concerned and decide I.A.No.7 of 1994 within a period of four months from the date of receipt of a copy of this order. The amount deposited in pursuance of the interim orders of this Court shall be subject to the final orders that may be passed by the Authority as directed above.

7. The writ petition is accordingly disposed of. There shall be no order as to costs.

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(G. BIKSHAPATHY, J.)

4th November, 2004.

bcj/mrb

To

1.The Authority Under Section 50 of A.P. Shops and Establishments Act,1988 and Labour Officer, Mahabubnagar.

2. The Judicial Magistrate of First Class, Kodangal, Mahaboobnagar District.

3. Two C.D. Copies